IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 16 OF 2005

Shri Balaram Pandu Tembhe. ... Appellant.
Versus.
Shri Vithoba Ramji Tembhe. ...Resondents.

Shri Rajiv Patil for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 13th January, 2005.

P.C.:

1. Heard Shri Patil for the Appellant. The Appeal is by the unsuccessful Plaintiff in a suit for removal of encroachment and perpetual injunction. The Appellate Court has set aside the decree passed in favour of the Appellant and has dismissed the suit. The Appellate Court has held that the Appellant has failed to prove the act of encroachment by the Respondent. The Appellate Court has considered the evidence on record and in particular evidence of the Surveyor who was appointed as Court Commissioner. The findings of the Appellate Court are based on evidence on record and there is no perversity in the said findings. No substantial question of law arises. The Second Appeal is dismissed with no order as to costs.

Judge.